

### **REMARKS**

Upon entry of this Amendment, claims 11-14 and 22-25 remain pending, with claims 11-13 and 22-25 under current examination, and claim 14 withdrawn from consideration as drawn to a nonelected invention.

In the Final Office Action<sup>1</sup>, the Examiner rejected claims 11-13 and 22-25 under 35 U.S.C. § 102(a) as being anticipated by that which the Examiner characterized as Applicant's Admitted Prior Art ("APA"). Applicants traverse the rejection for the reasons that follow.

By this amendment, Applicants have amended claims 11 and 23 to more appropriately define the present invention. Support for these amendments may be found in the specification at, for example, page 59, line 13 to page 61, line 4, and Figures 23A and 23B.

#### **Rejection of Claims 11-13 and 22-25 under 35 U.S.C. § 102(a):**

Applicants respectfully traverse the rejection of claims 11-13 and 22-25 under 35 U.S.C. § 102(a) as being anticipated by APA. Applicants respectfully disagree with the Examiner's arguments and conclusions.

In order to properly establish that APA anticipates Applicants' claimed invention under 35 U.S.C. § 102(a), each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

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<sup>1</sup> The Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Office Action.

APA fails to teach each and every element recited in independent claim 11. In particular, APA does not disclose as least Applicants' claimed "gate insulating film formed on at least part of the at least one side surface of the island-shaped element region," as recited in amended claim 11.

Consistent with the present invention, the gate insulating film 18 is formed on a side surface of the island-shaped element region 14. See Figures 23A and 23B and page 59, line 13 to page 61, line 4. In contrast, in APA the gate insulating film 3505 is not formed on a side surface of an island-shaped element region, to the extend that Si-body (well region) 3503, source and drain 3504, and diffusion layer 3507 of APA can be interpreted as an island-shaped element region. See Figures 26A and 26B and page 2, lines 5-14. Thus, APA does not teach the claimed "gate insulating film formed on at least part of the at least one side surface of the island-shaped element region," as recited in amended claim 11.

Independent claim 11 is therefore allowable, and dependent claims 12, 13, and 22 are also allowable at least by virtue of their dependence from allowable base claim 11. Therefore, the 35 U.S.C. § 102(a) rejection of claims 11-13 and 22 should be withdrawn.

APA fails to teach each and every element recited in independent claim 23. In particular, APA does not disclose as least Applicants' claimed "gate insulating film formed on at least part of the at least one side surface of the island-shaped element region," as recited in amended claim 23.

As discussed above, in APA the gate insulating film 3505 is not formed on a side surface of an island-shaped element region. Therefore, APA does not teach the

claimed "gate insulating film formed on at least part of the at least one side surface of the island-shaped element region," as recited in amended claim 23.

Independent claim 23 is therefore allowable, and dependent claims 24 and 25 are also allowable at least by virtue of their dependence from allowable base claim 23. Therefore, the 35 U.S.C. § 102(a) rejection of claims 23-25 should be withdrawn.

**Conclusion:**

In view of the foregoing, Applicants request reconsideration of the application and withdrawal of the rejections. Pending claims 11-13 and 22-25 are in condition for allowance, and Applicants request a favorable action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: December 8, 2006

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